

LICENSE AGREEMENT
BY AND BETWEEN
BOSTON REDEVELOPMENT AUTHORITY
AND
NEW ENGLAND HOLOCAUST MEMORIAL COMMITTEE

This Agreement, entered into this ____ day of May, 1993 by and between the Boston Redevelopment Authority, a public body politic and corporate, duly organized and existing pursuant to Chapter 121B of the General Laws of the Commonwealth of Massachusetts, having its usual place of business in Boston, and hereinafter referred to as the Grantor, and the New England Holocaust Memorial Committee, a Massachusetts non-profit corporation with a principal place of business, C/O Katherine D. Kane, Inc., 59 Temple Place, Boston, MA 02111 hereinafter referred to as the Grantee.

WHEREAS, a portion of the northerly end of Union Street Park ("Memorial Site") has been designated by the BRA for the development of the New England Holocaust Memorial ("Memorial") by Committee, as shown on the map attached hereto and made a part thereof, Exhibit A, "Memorial Site"; and

WHEREAS, The BRA at its meeting of January 9, 1992, reconfirmed its designation of the site for development of the Memorial; and

WHEREAS, The BRA at its meeting of April 29, 1993 authorized the Director to enter into this Agreement to effectuate the construction of said Memorial.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained, the Authority authorizes and permits the Grantee, its agents, employees, contractors and subcontractors, to enter upon the Memorial site to locate, construct and maintain the New England Holocaust Memorial in compliance with plans by Stanley Saitowitz, Architect dated _____ and attached hereto as Exhibit "B".

The parties hereto agree as follows:

1) The term of this Agreement shall commence May 1, 1993 and shall terminate when no longer required for the purposes stated herein, or upon thirty (30) days written notice by the Grantor. Construction shall be diligently prosecuted to completion no later than May 1, 1994.

2) The Grantee shall have complete responsibility and liability for compliance with all provisions of the codes, ordinances, and laws of the City of Boston and the Commonwealth of Massachusetts.

3) The Grantee shall indemnify and save harmless the Grantor from all suits, actions, claims, demands, damages or losses, expenses, and costs of any kind and description to which the Grantor may be subjected to or put, by reasons of injury (including death) to persons or property resulting from, in connection with, or growing out of any act of commission or omission of the Grantee, its agents, servants, employees, visitors, contractors, subcontractors, or any and all other persons or corporations dealing with the Grantee in any way in the entry and use of the License Area. At the notice of the Grantor the Grantee shall initiate and complete all activities, including any legal proceedings, necessary to effect the resolution of any such suits, actions, claims, or demands.

4) The Grantee shall be required to carry for the term of this Agreement Comprehensive General Liability Insurance, insuring the Grantee and Grantor against all claims and demands for personal injury and property damage with respect to the Memorial Site. The limits for said insurance shall be not less than One Million (\$1,000,000) Dollars. The Authority shall be named as an additional insured on all policies obtained in connection with this Agreement.

5) The Grantee shall carry or require that there be carried Workers Compensation Insurance for all their employees and those of their contractors, subcontractors, and agents engaged in work at the site, in accordance with State Workman's Compensation Laws.

6) The Grantee agrees to assume all utility expenses including water, sewer, gas and electricity charges pertaining to the Memorial Site. The Grantee shall pay directly to the proper person or authorities when due all charges with respect to the Memorial Site, whether called charges, assessments, fees, or otherwise, for utility services.

7) The Grantee shall make entry upon the Memorial Site in "as-is" condition on the commencement date of this Agreement. The Grantee shall not commit or suffer waste or impairment of the site. Any damage to Union Street Park in connection with the activities permitted herein shall be repaired by the Grantee at his expense. The Grantee shall maintain the improvements constructed pursuant hereto.

8) The Grantee agrees to maintain the Memorial Site in a clean, safe and orderly manner. No accumulation of litter, rubbish, debris, or other disposable material shall be permitted within the Memorial Site and shall provide for perpetual maintenance through a trust established for this purpose and administered by the Authority through the City of Boston Trust Office. The Grantor shall provide limited maintenance and trash removal as part of its ongoing stewardship of Union Street Park and otherwise all work undertaken with respect to the Memorial Site shall be at the sole cost and expense of the Grantee without any liability to the Grantor.

9) The Grantee covenants that it will not occupy or use the Memorial Site, nor

allow it to be occupied or used for any purpose other than for those expressly permitted under this Agreement.

10) In no event shall any of the activities permitted under this Agreement in any way threaten damage to nearby utilities or buildings. During construction, the Grantee shall secure the Memorial Site to prevent unauthorized entry including but not limited to, barriers or locks to all entrances, exits and excavations.

11) The Grantee shall, if the work herein permitted requires permitting, obtain the necessary permits from the City of Boston before proceeding with such operation. All plans and specifications shall be stamped and certified by an appropriate structural engineer.

12) The Grantee shall not discriminate in their hiring, nor will they allow any of their agents, contractors, subcontractors, or employees to discriminate upon the basis of race, color, sex, creed, or religion in their hiring practices. In accordance with this provision, the Licensee shall comply with the Grantor's Equal Employment Compliance Policy.

13) Failure to comply with any of the provisions of this Agreement shall constitute due cause to terminate this Agreement forthwith.

14) Nothing herein shall constitute the relation between the Parties hereto to be other than an independent one, it being their intent that this Agreement shall not constitute a partnership, joint venture or agency. The agents of the Grantee shall be subject to the full direction and control of the Grantor and nothing in this Agreement shall be construed, implied or inferred as creating any agency relationship between the Parties.

15) No fixtures shall be installed, and no improvements or alterations shall be made to the Memorial Site without the Grantor's written permission. Upon the termination of this Agreement by breach of any covenants contained herein, Grantee agrees that the Memorial perpetual maintenance trust fund as described in Paragraph 8 shall remain deposited with the City of Boston Trust Office to be administered on behalf of the Grantor.

16) This Agreement may not be assigned, transferred, mortgaged or encumbered in any way without the specific written permission of the Licensor.

17) The Grantee shall not engage, directly or indirectly, in any commercial activities within the Memorial Site.

18) Grantor reserves the right to assign and/or transfer this Agreement to any other City or State agency which is acceptable to the Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be

signed, sealed and delivered, by their duly authorized officers respectively, as of the date first written above.

MEMORANDUM

MAY 10, 1992

BOSTON REDEVELOPMENT AUTHORITY

By: _____

Paul L. Barrett, Director

NEW ENGLAND HOLOCAUST MEMORIAL COMMITTEE

By: _____

APPROVED AS TO FORM:

Chief General Counsel

MEMORANDUM

MAY 13, 1993

TO: BOSTON REDEVELOPMENT AUTHORITY AND
PAUL L. BARRETT, DIRECTOR

FROM: HOMER RUSSELL, ASSISTANT DIRECTOR
FOR URBAN DESIGN AND DOWNTOWN PLANNING
ROBERT KROIN, CHIEF SENIOR ARCHITECT
JOHN O'BRIEN, PROJECT MANAGER FOR ECONOMIC DEVELOPMENT

SUMMARY: THIS MEMORANDUM REQUESTS THAT THE DIRECTOR BE AUTHORIZED TO ENTER INTO AND DELIVER A TEMPORARY LICENSE AGREEMENT WITH THE NEW ENGLAND HOLOCAUST MEMORIAL COMMITTEE TO ENTER UPON A PORTION OF GOVERNMENT CENTER PARCEL 7 FOR THE PURPOSES OF CONSTRUCTING THE NEW ENGLAND HOLOCAUST MEMORIAL.

On November 29, 1990 the Authority authorized funding grants to the New England Holocaust Memorial Committee totaling \$25,000 for the design, development and technical support needed to construct the New England Holocaust Memorial, to be located on the Authority-owned portion of Government Center Parcel 7, adjacent to Faneuil Hall, City Hall and the Freedom Trail. This grant was subsequently increased by Board vote of January 9, 1992 to \$40,000.

In an international competition, the Committee received 520 design submissions, and after 65 hours of deliberation, a jury of professionals awarded first prize to noted architect Stanley Saitowitz. Mr. Saitowitz has designed six glass columns located within the park and surrounded by its existing trees. Illuminated at night, the columns evoke the six death camps (Auschwitz, Belzec, Chelmino, Majdanak, Sobibor and Treblinka), the six million Jews who perished, and a menorah (candelabra) with the center candle missing to signify loss. Rich in metaphor, the memorial makes a powerful statement of memory and hope.

In the spring of 1990, a public hearing was held in the City Council Chambers to seek community input regarding the memorial. In May of 1991, various community and city representatives met to review the finalists' submissions. The following month, a public exhibition of the designs of the seven finalists was displayed in Boston City Hall. In the spring of 1992, a series of meetings were held with residents of the North End -

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Waterfront Council, the merchants in the Blackstone Business Association and the Boston Preservation Alliance. As a result of these sessions, 1) the height of the columns has been lowered from 64 to 54 feet; 2) the width of each column has been reduced from eight feet to seven; and 3) the distance between the columns has been increased. Finally, a public exhibition of the proposed memorial was held at the Government Center Plaza level of City Hall this spring, describing in detail - through models, drawings and photographs - the final design of the memorial.

The memorial has also been reviewed and approved by the Boston Parks and Recreation Commission, the Boston Civic Design Commission and the Boston Art Commission in March of this year. Additionally, the Committee has received endorsements from the Mayor's Office of Arts and Humanities and Mayor Raymond L. Flynn. In response to this overwhelming support, the Memorial was incorporated into the public open space component of the Downtown Freedom Trail.

The Committee has submitted final design documents and at this time has obtained commitments for over \$700,000 from individuals to begin the construction of the memorial. It is anticipated that the City of Boston Browne Fund will contribute \$130,000 and the State will provide up to \$750,000 to complete the memorial. In addition to these funds, the business community is committed to a \$1,000,000 campaign to provide a perpetual maintenance fund.

Because the BRA will retain ownership of the land at Parcel 7 land area, a license to enter agreement is the appropriate method for constructing the memorial on land to be retained in public ownership.

The manner by which the Holocaust Memorial is developed is best demonstrated by the procedure followed by two other memorials recently approved by the Authority. In June of 1991, the BRA authorized the Director to execute a temporary license agreement with the Beirut Memorial Committee to enter a portion of Waterfront Park for the purpose of constructing a Massachusetts Beirut Memorial. In April of this year, the BRA also authorized the Director to enter into a license agreement with the Massachusetts Korean War Veterans Committee permitting the construction of a war memorial within Shipyard Park in Charlestown. Because no authority owned land is being transferred or leased, no designations are appropriate.

The New England Holocaust Memorial process is identical to that followed by the above two memorials.

It is therefore recommended that the Director be authorized to enter into and deliver a temporary License Agreement (a draft of which is attached) with the New England Holocaust Memorial Committee to enter upon aa portion of Government Center Parcel 7 for the purposes of constructing the New England Holocaust Memorial.

An Appropriate Vote Follows:

VOTED: That the Director be authorized to enter into and deliver a temporary License Agreement (a draft of which is attached) with the New England Holocaust Memorial Committee to enter upon a portion of Government Center Parcel 7 for the purposes of constructing the New England Holocaust Memorial. The License shall contain the usual requirements and such other terms and conditions as the Director and the Chief General Counsel deem proper and in the interest of the Authority. Construction shall not commence until the Director approves a sound financing plan for the construction and perpetual maintenance of the memorial.

